

REMARKS

Status of the Claims

Claim 42 has been amended. Claims 1-12, 25, 31, and 40 were cancelled in previously-filed Amendments. Claims 13-24, 26-30, and 35 have been withdrawn from consideration. Claims 32-34, 36-39, and 41-43 are presented for the Examiner's review and consideration. Applicants believe the claim amendments and accompanying remarks herein serve to clarify the present invention and are independent of patentability. No new matter has been added.

Amendments to Claim 42

No new matter has been added by the amendments to claim 42 made herein. This claim has been amended to clarify: (1) that the method is a method for administering (a food article or a lipid-based dietary supplement) in accordance with the originally-elected subject matter; and (2) that the edible lipid constitutes at least part of the fat content of the food article or of the dietary supplement. The concept of the edible lipid as part of the fat content of the food article or the dietary supplement is supported by the specification as originally filed. *See* paragraphs [0033]; [0036]; [0046]; [0054]; and [0058] of the published application, U.S. Patent Application Publication 2008/0058415 A1.

No new matter has been added by the remainder of the amendments to claim 42 made herein. These amendments have been made for consistency of language; to correct inadvertent typographical errors; to correct inadvertent errors in grammar and/or punctuation; and/or to provide proper antecedent basis for all terms recited.

Notice of Non-Responsive Amendment

The Examiner asserts that the amendment filed on December 7, 2010 is non-responsive to the Office Action mailed on July 7, 2010 as the pending claims allegedly present a non-

elected invention. Specifically, the pending claims are not readable on the originally-elected invention because elected claim 25 was drawn to a method of administering a composition, however, Applicants have now cancelled claim 25 and presented new claim 42 drawn to a method of making a composition.

In response, claim 42 has been amended to recite a method for administering a composition in accordance with the originally-elected subject matter.

In light of the foregoing, Applicants respectfully request reconsideration and withdrawal of the Notice of Non-Compliant Amendment.

Conclusion

In light of the foregoing amendments and remarks this application is now in condition for allowance, and early passage of this case to issue is respectfully requested. If any questions remain regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned. No fees are believed to be due at this time. However, please charge any fee required (or credit any overpayment) to the Deposit Account of the undersigned, Account No. 500601 (Docket No. 7056-X08-022).

Respectfully submitted,

/Katharine F. Davis Wong/

Katharine F. Davis Wong, Reg #51,598 for
Martin Fleit, Reg. #16,900

Customer Number: 27317
Martin Fleit
FLEIT GIBBONS GUTMAN BONGINI & BIANCO
21355 East Dixie Highway, Suite 115
Miami, Florida 33180
Tel: 305-830-2600; Fax: 305-830-2605
e-mail: mflleit@fggbb.com